

Abstract

Basic Qualifying Requirements in Public Tenders

The purpose of this thesis is to analyse the Basic Qualifying Requirements in the public tenders, as enacted in the Section 53 of the Act no. 137/2006 Coll., on Public Procurement, as amended. The initial reasons for my research are constantly changing legal rules in this branch of law that often do not reflect the European enactment in the Directive 2004/18/EC.

The thesis is composed of an Introduction, 3 separate Chapters and a Conclusion.

The Introduction outlines the aim of the thesis, its structure and arrangement of the Chapters are shown in this part as well. The Introduction is then followed by the first Chapter called Qualification, in which the topic of criteria for qualitative selection is discussed in the context of the general provisions concerning qualification in the public tenders. This Chapter is subdivided into two parts separately dealing with the requirements of the bodies governed by public law and entities operating in the water, energy, transport and postal services sectors.

The second Chapter examines the European enactment of the Public Procurement in the Directive 2004/18/EC, as well as in the Directive 2004/17/EC concerning the entities operating in the above mentioned special sectors. The core of this part lies in a complex analysis of the Article 45 of the Directive 2004/18/EC.

The third Chapter is subsequently dedicated to the Czech legal enactment of the Basic Qualifying Requirements in the Public Procurement Act. The Particular Qualifying Requirements are divided into 4 groups based on the legal branches they belong to and they are subsequently critically analysed. Furthermore it is assessed, whether their wording corresponds with the requirements of the European law, and if some problems are identified, the solution has been proposed. In case the Austrian law-maker has enacted the particular Requirements in a different way, the different approach is compared with the Czech legal provisions. Special attention is last, but not least, paid to the Basic Qualifying Requirements in the fields of defence and security.

As a Conclusion the Czech legal provisions are evaluated, the main deficiency are summarised and their legislative solution is proposed.